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AF/2835

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

David R. Davis et al.

Title: CPU FAN ASSEMBLY

Docket No.: 450.232US2

Filed: December 26, 2001

Examiner: Yean H. Chang

Serial No.: 10/034110

Due Date: March 20, 2004 (Saturday)

Group Art Unit: 2835

MS Appeal Brief - Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

We are transmitting herewith the following attached items (as indicated with an "X"):

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☒ Appellants' Reply Brief (3 Pages).

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

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Atty: John M. Dahl

Reg. No. 44,639

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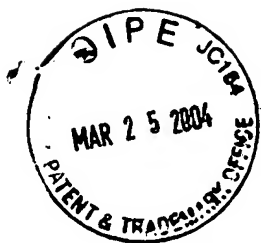
Candis B. Buending

Name

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

(GENERAL)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
David R. Davis et al.)	Examiner: Yean H. Chang
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Serial No.: 10/034110)	Group Art Unit: 2835
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Filed: December 26, 2001)	Docket: 450.232US2
)	
For: CPU FAN ASSEMBLY)	

APPELLANTS' REPLY BRIEF

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O.Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is presented in response to the Examiner's Reply Brief mailed on January 20, 2004, in response to Applicant's appeal from the final rejection of claims 1, 3-6, 32-34 and 36-51 of the above-identified application, as set forth in the Final Office Action mailed July 1, 2003.

The Reply Brief is filed in triplicate. Please charge any required fees or credit overpayment to Deposit Account 50-0439.

1. RESPONSE TO EXAMINER'S REPLY

The Examiner's Reply brief argues that the claimed limitation of "at least one board, the at least one board suitable for accepting a plurality of components including a first component" as recited in the preamble of claim 1, is merely a statement of intended use or purpose, and not a useful limitation of the claim. Applicant respectfully points out that this is not merely an intended use or purpose, but recites structural elements and relates the structural elements recited to various other elements of the claims.

More specifically, the cited portion of the preamble physically relates a first component to the board, and the first component is recited in various other elements of the claims. The isolation assembly, specifically, is recited as both enclosing the first component and generally enclosing heat generated by the first component, and separating the first component from another of the components that is heat-sensitive.

MPEP §2111.02 explicitly states that "Any terminology in the preamble that limits the structure of the claimed invention must be treated as a claim limitation", citing *Pac-Tec Inc. v. Amerace Corp.*, 903 F.2d 796, 801 (Fed. Cir. 1990). It further explains that "A claim preamble has the import that the claim as a whole suggests for it", and concludes in its analysis of *Kropa v. Robie* that where the preamble serves to further define the structure of the article produced it should be construed as if in the balance of the claim.

Although the first component and board are originally recited in the preamble of the claim, they are recited in a way that ties them together, and that combination of elements is later structurally and functionally tied to the isolation assembly element and to other elements of the pending claims.

2. SUMMARY

Applicant believes the claims are in condition for allowance, and requests withdrawal of the rejections of claims 1, 3-6, 32-34 and 36-51. Reversal of the Examiner's rejections of claims 1, 3-6, 32-34 and 36-51 in this appeal is respectfully requested.


Respectfully submitted,

DAVID R. DAVIS et al.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402

Date Mar 22 '04

By 
John M. Dahl
Reg. No. 44,639

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Candis B. Buending

Name

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